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ATTORNEY FOR APPELLANT:

THOMAS C. ALLEN
Fort Wayne, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

ARTURO RODRIGUEZ II
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

RICKY W. OUTLAW,
Appellant-Defendant,

vs.

STATE OF INDIANA,
Appellee-Plaintiff.

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No. 02A04-0704-CR-184

APPEAL FROM THE ALLEN SUEPRIOR COURT
The Honorable John F. Surbeck, Jr., Judge
Cause No. 02D04-0508-FC-170

August 3, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

Ricky W. Outlaw (“Outlaw”) appeals his conviction for battery as a Class C felony. Concluding that the evidence is sufficient to sustain Outlaw’s conviction for battery, we affirm the judgment of the trial court.

Facts and Procedural History

On August 11, 2005, Outlaw walked into Mark’s City Market (“the Market”) in Allen County, proceeded to the beer aisle, placed six cases of beer in a cart, and walked out of the store without paying. Sara Allen (“Allen”), who was working at the Market, saw Outlaw take the beer from the store and followed him outside. Once outside, Allen saw Benjamin Reinert (“Reinert”) and asked him if he saw a man with six cases of beer. Reinert told Allen that he saw the man go around the corner, and the two went around the corner and saw Outlaw pushing the cart full of beer. Allen told Outlaw that if he left the beer, no charges would be filed against him. Outlaw then turned, walked toward Allen, and kicked her in the stomach. When Outlaw tried to hit Allen, Reinert jumped on Outlaw, and the two started to fight. Outlaw reached in his pocket and pulled out a knife, and Reinert backed away. Outlaw ran toward Reinert, began swinging his knife at him, and eventually cut Reinert’s arm. Reinert, who also had a knife, opened his knife and stabbed Outlaw in the stomach in self-defense. When Outlaw continued to advance toward Reinert, Reinert again stabbed Outlaw in the stomach. Outlaw then opened one of the cases of beer, threw bottles at Allen and Reinert, and then walked away. After the police arrived on the scene, they found Outlaw lying in some nearby bushes.

The State charged Outlaw with Count I, battery as a Class C felony;¹ Count II, battery as a Class A misdemeanor;² and Count III, criminal conversion as a Class A misdemeanor.³ During Outlaw’s jury trial, the State presented testimony from three eyewitnesses—Allen, Reinert, and David Dawkins (“Dawkins”), who lived next to the Market and saw the crime occur—that Outlaw used a “knife” to cut Reinert’s arm. Tr. p. 102, 134, 172. Dawkins specifically testified that the blade of the “knife” was “five or six inches long . . . significant enough to see . . . [and] was a serious, serious knife.” *Id.* at 172. When Outlaw testified at trial, he admitted that he cut Reinert’s arm but testified that he used a “fingernail file” from a nail clipper to cut him. *Id.* at 250. The jury found Outlaw guilty of Count I and III but not guilty of Count II. The trial court sentenced Outlaw to eight years for his Class C felony battery conviction to be served concurrently to one year on his criminal conversion conviction. Outlaw now appeals.

Discussion and Decision

Outlaw’s sole argument on appeal is that the evidence was insufficient to support his conviction for battery.⁴ In reviewing a claim of insufficient evidence, we neither reweigh the evidence nor assess the credibility of the witnesses. *Love v. State*, 761 N.E.2d 806, 810 (Ind. 2002). Instead, we look to the evidence most favorable to the verdict and reasonable inferences drawn therefrom. *Id.* We will affirm the conviction if

¹ Ind. Code § 35-42-2-1.

² *Id.*

³ Ind. Code § 35-43-4-3.

⁴ Outlaw does not challenge his conviction for criminal conversion.

there is probative evidence from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Id.*

To convict Outlaw of battery as a Class C felony, the State was required to prove beyond a reasonable doubt that Outlaw “knowingly or intentionally touche[d]” Reinert “in a rude, insolent, or angry manner . . . by means of a deadly weapon.” *See* Ind. Code § 35-42-2-1(a)(3); *see also* Appellant’s App. p. 12. A “deadly weapon” is defined, in part, as, “[a] destructive device, weapon, device . . . equipment . . . or other material that in the manner it is used, or could ordinarily be used, or is intended to be used, is readily capable of causing serious bodily injury.” Ind. Code § 35-41-1-8(a)(2).

Outlaw only challenges the deadly weapon element and argues that the State failed to provide sufficient evidence that he committed the crime with a deadly weapon. Here, the State charged Outlaw with battery committed by means of a deadly weapon, specifically “a knife.” Appellant’s App. p. 12. Outlaw does not challenge the fact that a knife is a deadly weapon. Instead, he argues that he injured Reinert with a nail clipper file and that the State failed to prove that a nail clipper file is a deadly weapon.

Outlaw’s argument amounts to nothing more than an invitation to reweigh the evidence, which we cannot do. The State presented testimony from three eyewitnesses that Outlaw used a “knife” to cut Reinert’s arm. Tr. p. 102, 134, 172. Thus, probative evidence exists from which the jury could have found Outlaw guilty beyond a reasonable doubt of battery as a Class C felony.

Affirmed.

SULLIVAN, SR. J., and ROBB, J., concur.